

United States Senate

WASHINGTON, DC 20510

July 23, 2019

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Secretary Pompeo:

We write to express our deep concern about your announcement on July 8, 2019 of a Commission on Unalienable Rights (“the Commission”), established pursuant to the Federal Advisory Committee Act, 5 U.S.C App. (FACA). Prior to the announcement, several of our colleagues in the Senate and the House sent you multiple information requests regarding the commission over the course of many weeks. Your response to those inquiries arrived at our offices on July 8, 2019, at the exact moment you made the formal announcement from the State Department podium. Your letter failed to fully answer questions about the Commission’s purpose, membership, and formation and consequently, we and the signers below have additional concerns.

When asserting that the new commission is needed, you said that proliferating human rights claims have created confusion over what “rights are” and that it will provide you with “fresh thinking” about human rights discourse. We vehemently disagree that there is any “confusion” over what human rights are. The 1948 UN Declaration of Human Rights begins by declaring that the recognition of the equal and inalienable rights “of all members of the human family is the foundation of the freedom, justice and peace.” Moreover, widely ratified international treaties codify “inalienable” rights.

Rather, it seems that the administration is reluctant—or even hostile—to protecting established, internationally recognized definitions of human rights, particularly those requiring it to uphold protections for reproductive rights and the rights of marginalized communities, including LGBT persons. The assertion that decades of well-defined agreement on human rights has sown confusion over what rights are is simply an Orwellian twist to defend the indefensible.

Attempts to veil this initiative as protecting America’s founding principles or to “revitalize” international human rights protections are absurd, particularly from an administration that has taken a wrecking ball to America’s global leadership on promoting human rights across the world. Indeed, the list is stunning: the administration continues to support despotic governments abroad while simultaneously ignoring the devastating abuses and rights of children and families on our border. Instead of condemning gross human rights violators, President Trump has fawned over Kim Jong-un, embraced Vladimir Putin, praised Rodrigo Duterte, looked the other way as Xi Jinping imprisons millions, and covered up for Mohammed Bin Salman.

The President's personal affection for those who have trampled on human rights has stained America's moral fabric. No State Department commission can erase that, and no State Department commission should be allowed to legitimize or rationalize such a cynical and corrosive approach taken by this President to the exceptional ideas and ideals that have made our nation great. Instead of a new body designed to limit human rights, we need the State Department and its Secretary to champion human rights by standing up for America's values and by using the framework that already exists and which prior administrations have championed for decades, regardless of party.

As the Department is surely aware, advisory committees "must be fairly balanced in its membership and in terms of the points of view represented and functions to be performed." 41 C.F.R. Sections 102-3.30. We are alarmed that a significant majority of the 10 members of the Commission do not reflect the diversity of views required for anybody tasked with advising the Secretary on human rights. The Commission's chair and members are overwhelmingly clergy or scholars known to support discriminatory policies towards LGBT persons, hold views hostile to women's rights and reproductive freedoms, and/or support positions at odds with U.S. treaty obligations.

We are also concerned that during the many months before the Commission was announced, there was no consultation or input from career human rights experts working in the State Department's own Bureau of Democracy, Human Rights and Labor (DRL). Indeed, this Commission appears to be an attempt to circumvent the Department's own foreign policy and human rights experts in an effort to pick and choose which rights the United States will respect and promote. If you wish to elicit the views of foreign policy and human rights experts, you have a plethora of them at your fingertips. Frankly, this redundant and duplicative commission is a waste of tax payer resources. Those funds would be better spent assessing the consequences of the administration's failure to meet basic human rights obligations, rather than limiting or redefining those rights.

As part of Congress' role in ensuring compliance with FACA, we request the Department provide the following information, prior to any further action with regard to the Commission:

1. A detailed explanation of how the Commission's purpose is different from DRL's purpose;
2. A description of DRL's prior and planned involvement in the Commission;
3. The criteria the Department used to select the Commission Members; and
4. According to your statement on July 12, 2019 the Commission will produce a written product for the State Department to "guide thinking about America's place in the world." When will the written product be completed? Will DRL and Congress be consulted prior to its release? How will the product be used at the State Department and within the government?

We will continue to stand up for the critical mission of protecting human rights for all people. We hope that under your leadership, the Department will protect and advance human rights

consistent with long-standing American values, and will demonstrate the global leadership that the world can and should expect from the United States.

Thank you for your prompt attention to this matter.

Sincerely,

Robert Menendez
United States Senator

Patrick Leahy
United States Senator

Christopher A. Coons
United States Senator

Tammy Duckworth
United States Senator

Richard Blumenthal
United States Senator

Kamala D. Harris
United States Senator

Elizabeth Warren
United States Senator

Jack Reed
United States Senator

Tina Smith
United States Senator

Chris Van Hollen
United States Senator

Kirsten E. Gillibrand
United States Senator

Jeanne Shaheen
United States Senator

Edward J. Markey
United States Senator

Patty Murray
United States Senator

Amy Klobuchar
United States Senator

Jeffrey A. Merkley
United States Senator

Cory A. Booker
United States Senator

Tammy Baldwin
United States Senator

Sheldon Whitehouse
United States Senator

Ron Wyden
United States Senator

Michael F. Bennet
United States Senator

Bernard Sanders
United States Senator

Benjamin L. Cardin
United States Senator